DOCUMENT RESUME

ED 104 231 HE 006 353

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TITLE	Prospective Issues at the Academic Collective Bargaining Table. Special Report No. 19.
INSTITUTION	Academic Collective Bargaining Information Service, Washington, D.C.
SPONS AGENCY	American Association of State Colleges and Universities, Washington, D.C.; Association of American Colleges, Washington, D.C.; Carnegie Corp. of New York, N.Y.; National Association of State Universities and Land Grant Colleges, Washington, D.C.
PUB DATE	Mar 75
NOTE	8p.
EDRS PRICE	MF-$0.76 HC-$1.58 PLUS POSTAGE
DESCRIPTORS	*Collective Bargaining; Collective Negotiation; Costs; *Educational Finance; Educational Needs; *Educational Planning; *Enrollment Trends; *Higher Education

ABSTRACT

Fluctuating enrollments, budgets, and inflationary factors have made "flexible planning" a necessity for the nation's campuses. The effects of these prospective issues at the academic collective bargaining table are discussed. (Author/MJM)

ED104231

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SPECIAL REPORT #19
March 1975

PROSPECTIVE ISSUES at the ACADEMIC COLLECTIVE BARGAINING TABLE

by
Dr. Thomas Mannix

Fluctuating enrollments, budgets, and inflationary factors have made "flexible planning" a necessity for the nation's campuses. What will these same conditions bring to the collective bargaining table this spring? To answer this question ACBIS turned to Dr. Thomas Mannix, acting director of the National Center for the Study of Collective Bargaining in Higher Education, Baruch College, City University of New York. His response should be a challenge to both administrators and faculty unions.

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In the springtime when a young man's fancy might be thought to turn to love, the thoughts of those involved in higher education collective bargaining turn, not so lightly, perhaps, to packages of bargaining demands. Many of the current college contracts will expire prior to the beginning of the 1975-1976 Fall term. New contracts will be negotiated this Spring and Summer. This paper attempts to forecast some of the issues facing the negotiators.

Wages and fringe benefit packages will continue to be an important part of any college union's demands. Many unions will seek large salary increases to offset "the erosion of purchasing power suffered by the rank and file due to the ravages of galloping inflation."[1] Some will include a demand for a cost-of-living clause in the new contracts.

Currently, cost-of-living clauses are relatively rare in college contracts. A spot check of more than 130 contracts on file at the Elias Lieberman Higher Education Library at the National Center for the Study of Collective Bargaining in Higher Education, Baruch College, CUNY, located only four contracts which referred to the cost-of-living index as a determinant or influence on salaries. This check was in no way meant to be exhaustive or conclusive. A full-scale computer search is slated for this spring for a broader picture of what the contracts have to say about cost-of-living clauses.

The Regis College contract (Colorado) which expires in mid-August 1975 contains a C-O-L clcation.

> III. 1974-75
> 1. Full-time faculty and librarians receive salary increases of six (6%) percent and one-quarter of the Consumer Price Index over six percent up to ten percent. The CPI will be calculated from July 1973 through June 1974 as published for Denver by the U. S. Bureau of Labor Statistics.[2]

A second private institution in Colorado, Loretto Heights College, has a cost-of-living reference:

> 21.2. Each full-time faculty member shall be given a 3.7% cost-of-living increase.
>
> 21.3. If the cost-of-living increase takes the full-time faculty member's salary beyond the maximum of his salary range, he shall receive only that portion of it which takes him to the maximum. If his salary is already beyond the maximum of his range, he shall receive no increment.[3]

The successor agreement, however, deletes any reference to cost-of-living:

> 21.2. The salary of each full-time faculty member shall be increased by 6.0%.
>
> 21.3. If the 6.0% increase takes the full-time faculty member's salary beyond the maximum of his salary range...[4]

Central Michigan University also deleted a specific reference to cost-of-living when it negotiated its current contract which expires June 30, 1977. The earlier contract had provided a limited salary re-opener if the cost-of-living index moved more that 15% from 119.4 (the index for February 1971).[5]

The most complex cost-of-living clause observed is in the Macomb County Community College contract which expired August 31, 1974. The NCSCBHE has not received any successor agreement so we do not know what changes may have been agreed to. This clause set a quarterly adjustment where employees received an $8.00 adjustment for each four-tenth of a percent increase in the CPI using July 1972's 145.9 as the base.[6]

As inflationary pressure continues, college bargainers will become more familiar with C-O-L demands.

The general economic conditions may also make it more difficult to bargain two or three-year agreements. Unions will probably want short-term agreements, particularly if their attempts at cost-of-living escalators and/or substantial wage increases are unsuccessful. Limited wage re-openers during longer term contracts may also become more popular. Short-term contracts may also be more acceptable to management as it attempts to plan for uncertain enrollments and funding.

The economic downturn has also severely limited the amount of money available for research grants. Some unions may try to negotiate research monies to be made available to faculty as a replacement for the foundation sources that have been sharply curtailed. This money might be charged against the overall economic settlement and could mean a lower salary and fringe benefit package.

Retrenchment and job security clauses will take on added significance in the coming bargaining rounds. A recent study found retrenchment clauses in just over half of the college contracts.[7] Twenty of forty-three four-year college contracts and sixty of one hundred and fifteen two-year college agreements had retrenchment clauses. All of the two-year college contracts were at public institutions. The twenty clauses in four-year college contracts were split ten each between public and private institutions. Of the eighty retrenchment clauses located, sixty were within four states (New York 23, Michigan 21, Illinois 9, and

Pennsylvania 7).

Many of the college clauses refer to, borrow from, or rely on the "1968 Recommended Institutional Regulations on Academic Freedom and Tenure," and the "Statement on Procedural Standards in the Renewal or Non-Renewal of Faculty Appointments," the "Standards for Notice of Non-reappointment of the AAUP," and the "1971 Statement on Staff Reductions in Response to Financial Exigency" of the Association of American Colleges. The clauses most often cite financial reasons, program curtailment and/or a decrease in student enrollment as proper causes for retrenchment with the burden of proof usually the responsibility of the college administration.

Seven criteria drawn from the various clauses could be used to determine the need for retrenchment: 1) consistently declining student credit hour production; 2) academically sound student/faculty ratio; 3) the state of development within a department, program, institute, school; 4) balance between academic and non-academic personnel; 5) possibilities of enrollment trend reversals; 6) the necessity of some disciplines and programs to be other than self-supporting; and 7) normal attrition.

In reading the general language that appears in most retrenchment clauses it is impossible to determine how the language is interpreted or applied in a given situation. The seniority situation is a perfect example. Fourteen of the eighty retrenchment clauses mention no criteria in determining who is retained if retrenchment becomes necessary. Twenty-one contracts mention seniority as one criterion but they also mention the mission of the college, professional competence, regard for the academic program, continuation of certain programs and similar phrases as having weight in lay-off or retrenchment decisions. How much weight and who decides this was not clear. Four of the twenty-one contracts limited seniority. One limited seniority to subject matter; another to non-tenured personnel with academic merit for tenured personnel; another said seniority could be used only if the department involved would still be able to function; and the fourth said the qualified should be retained first and then seniority should be considered. At some considerable effort, I shall refrain from commenting extensively on what academic merit may mean and I shall also not attempt to explain what any college would be doing with unqualified employees on its current payroll.

Forty-five of the eighty retrenchment clauses list seniority as the only criterion to be used in retrenchment decisions. It is not possible to determine from most contracts whether seniority is by rank, department, division, school, campus-wide, university-wide, etc. How seniority is applied can critically affect contract administration. Perhaps, this has already been decided by the parties and the difficulty lies in either faulty contract draftsmanship or my ability to interpret a given clause.

The current contract clauses are often unclear as to who

determines, when, and under what circumstances a financial exigency exists. What steps must be taken to economize before staff reductions take place? How much faculty/bargaining agent input is permitted/required or encouraged? Can retrenchment decisions be arbitrated? If so, may the arbitrator reinstate a retrenched faculty member if proper cause for reinstatement is found? These and other related questions will rise more often in future bargaining sessions.[8] My guess is that many of the clauses were negotiated as a protection for the faculty at a time when actual retrenchment was not realistically thought to be important. Now that retrenchment is a real possibility, the exisitng clauses will have to be reexamined and colleges whose contracts are silent about retrenchment may experience intense union pressure to negotiate such a clause.

The broadest approach to job security is probably the one found in the Pennsylvania State College System contract where the Commonwealth agreed not to retrench faculty members for the academic years 1974-1975 and 1975-1976.[9] Other unions will no doubt try to get similar "no retrenchment" guarantees in their contracts.

Pressure on jobs and the declining employment market will also increase demands from unions for reasons to be given to employees when they are not retained. Arbitral review of academic judgments will also be pushed by many unions.

Many colleges will face demands from unions to grant a form of contractual tenure or job security to employees not covered by the regular tenure policy. Higher education bargaining units are often drawn broadly so that they encompass many titles not covered by the tenure policy that might be in effect. The City University of New York contract grants a Certificate of Continuous Employment to lecturers (full-time) under certain circumstances.[10] The State University of New York contract also grants job security provisions to a variety of titles under the general heading of "Professional Staff."[11]

Affirmative action demands will be an important part of future college bargaining sessions. Hiring practices, promotion procedures, tenure decisions, work assignments, and a variety of other working conditions are all affected by affirmative action regulations and guidelines. Time, space, and the knowledge of the author about the intricacies of affirmative action limit comments but college bargainers on both sides of the table will want to be completely briefed on the affirmative action implications of their demands. Colleges without contracts or bargaining agents will still be affected by affirmative actions decisions as evidenced by the recent Chronicle news item about Smith College being ordered to reinstate two women with back pay and with tenure by the Massachusetts Commissioner Against Discrimination.[12]

One of the more dramatic issues to be resolved this Spring at the bargaining table is whether or not unions and management, working together, can make the limited available dollars serve more people at a time when economic recession and inflation militate in the opposite direction. Recently the New York City

police and firemen have expressed interest in the possibility of giving up certain supplemental benefits in order to save jobs assigned for retrenchment. It will be interesting to see what types of fresh approaches to this problem will surface in the academic community. Some of those already being discussed are fewer administrative positions, less overtime pay, more part-time faculty, lower allocations for supplies and travel and fewer support staff.

Pressures at the bargaining table during this round of negotiations will probably be worse than those of the last two or three years since competing organizations are lurking on and just off campus to raid unions who fail to negotiate contracts that live up to rank and file expectations. At the same time management will be under extreme budgetary limitations.

The next few months should prove to be interesting and, perhaps, unsettling as successor agreements are negotiated or first bargains are struck in these difficult areas at a time of extreme economic turmoil.

FOOTNOTES

1. Some union spokesman has or will say this or words to this general effect before many more weeks have passed, but I do not have a specific spokesman that I can now give credit to for this statement.

2. Agreement Between Regis College and Regis College AAUP Chapter, Article III, Sub-section III(sic), August 15, 1975, p.3.

3. Agreement Between Loretto Heights College and the Loretto Heights College Faculty Education Association, Article XXI, May 2[illegible], 1974, p.25.

4. Agreement Between Loretto Heights College and the Loretto Heights College Faculty Education Association, Article XXI, May 31, 1976, p.24.

5. Agreement Between Central Michigan University and Central Michigan University Faculty Association, June 30, 1974, p.28.

6. Agreement Between Community College District of the County of Macomb and Macomb County Community College Faculty Organization, Article XXIV, August 31, 1974, pp.45-47.

7. Newsletter, NCSCBHE, Vol 2, No. 4 (Sept./Oct. 1974). pp.2-8.

8. The basic research on retrenchment clauses first appeared in an unpublished manuscript "Retrenchment Clauses in Higher Education Contracts" by Daniel Julius, a graduate research assistant, the Elias Lieberman Library.

9. Agreement Between Commonwealth of Pennsylvania and Association of Pennsylvania State Colleges and University Faculties, August 31, 1977, p.67.

10. Agreement Between the Board of Higher Education of the City of New York and Professional Staff Congress/CUNY, Article 12, August 31, 1975, pp. 11-12.

11. Agreement Between the State of New York and United University Professions, Inc., Article 33, June 30, 1976, pp. 49-56.

12. Chronicle of Higher Education, February 3, 1975, p.2, Col. 3-4.